

Remarks

Reconsideration of the instant application is respectfully requested in light of the above-amendments and following remarks.

I. STATUS OF THE CLAIMS

Claims 1-7, 9-14, and 16-19 are now pending. Claim 1 has been amended to facilitate prosecution and claims 8, 15, and 20 have been canceled without prejudice.

II. THE EXAMINER'S REJECTIONS UNDER 35 U.S.C. 112 HAVE BEEN RENDERED MOOT

The Examiner rejected claims 8, 15, and 20 under 35 U.S.C. 112, second paragraph, as being indefinite. More specifically, the Examiner asserted that such claims improperly contained the trademarks/trade names "CARBOPOL AQUA SF-1."

In reply, applicants respectfully submit that in light of the amendments to the claims, such rejections have been rendered moot.

III. THE CLAIMED INVENTION IS PATENTABLE OVER SHANA'A

The Examiner rejected claims 1-20 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,737,394¹ issued to Shana'a (hereinafter "Shana'a"). More specifically, the Examiner asserted that Shana'a discloses isotropic cleansing compositions comprising surfactants and a thickening agent, including hydrophobically modified, crosslinked, polyacrylates. In particular, the Examiner noted that Table 2, Example IV of Shana'a listed a "composition comprising 9% by weight of a blend of ammonium laureth sulfate/ammonium lauryl sulfate/cocamide MEA/PEG-5 cocamide, 0.8% by weight of cocamidopropyl betaine, 0.5% weight of glycerin, 1.5% by weight of CARBOPOL AQUA SF-1 . . . per the requirements of the instant claims."

In reply, applicants respectfully submit that Shana'a fails to teach or suggest the invention defined in claims 1-7, 9-13, and 17-19 as amended, and further fails completely to teach or suggest the invention defined in claims 14 and 16. In particular, as discussed

¹ Applicants respectfully do not necessarily agree that this reference is properly cited as prior art and hereby reserve the right to swear behind such reference.

in more detail below, Shana'a fails to teach or suggest any composition comprising at least one anionic surfactant, at least one hydrophobically modified acrylic copolymer, and from 1 percent to about 30 percent of an amphoteric surfactant, and with respect to claims 14 and 16, clearly fails to teach or suggest any composition comprising at least one anionic surfactant, at least one hydrophobically modified acrylic copolymer, and from about 2 percent to about 15 percent of an amphoteric surfactant, as required in the claims. Shana'a further fails to teach or suggest that such components can be particularly combined to produce a composition that is surprisingly "mild to the skin and/or eyes and is substantially free of ocular sting" as required by the claims. Therefore the Examiner's rejection should be withdrawn and the claims allowed.

Shana'a is directed to liquid cleansing compositions comprising one or more surfactants and a thickener, which may include a polyacrylic including CARBOPOL AQUA SF-1. While the Examiner has in particular identified the compound shown on Table 2, Example IV as meeting the requirements of the claimed invention, applicants respectfully submit that such composition does not teach each and every limitation of the claims and therefore, does not anticipate the such claims. Rather, applicants note that the Shana'a composition comprises only 0.8 amphoteric surfactant, not from 1 percent to about 30 percent amphoteric as required in claims 1 and 17, nor from about 2 percent to about 15 percent as required in claim 14. Shana'a fails to teach any other composition comprising at least one anionic surfactant, at least one hydrophobically modified acrylic copolymer, and from 1 percent to about 30 percent or from about 2 to about 15 percent of an amphoteric surfactant. Accordingly, Shana'a fails to teach each and every limitation of the claims and does not anticipate such claims.

Moreover, Shana'a further fails to teach or suggest any composition of the claimed combination that exhibits the unexpected properties of being mild to the skin and/or eyes and being substantially free of ocular sting as required by the instant claims. Only applicants have recognized the surprisingly low irritation properties associated with the claimed compositions as compared to other comparable anionic surfactant-containing compositions. Those of skill in the art would thus not have recognized the possibility of achieving nor been motivated to achieve the claimed compositions with the claimed

mildness in light of Shana'a. Accordingly, the claimed invention defines subject matter that is patentable over Shana'a. Therefore, the pending claims should be allowed.

IV. THE PROVISIONAL DOUBLE PATENTING REJECTIONS ARE RENDERED MOOT

The Examiner provisionally rejected claims 1-20 under the doctrine of obviousness-type double patenting in view of: claims 1-14 of copending Application No. 10/650,398; claims 1-18 of copending Application No. 10/650,226; and claims 1-17 of copending Application No. 10/650,495.

While applicants do not necessarily agree with the Examiner's rejections in any regard, nevertheless, because such provisional rejections are the only rejections remaining in view of the amendments and remarks herein, applicants submit such rejections should be withdrawn pursuant to MPEP 804(I)(B), and the instant case allowed. Should any of the above applications issue into a patent prior to allowance of the instant application, the Examiner is requested to contact the undersigned to allow applicants to consider filing a Terminal Disclaimer, or otherwise overcome any resulting double patenting rejection.

V. CONCLUSION

In light of the above amendments and remarks, applicants respectfully submit the application is in condition for allowance and requests an early notice of allowance for this application. Should the Examiner have any questions regarding this submission, please contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brett Freeman", with a long horizontal flourish extending to the right.

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